

REMARKS:

Reconsideration of the rejections is respectfully requested.

The status of the claims is as follows:

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| Amended: | 1, 18, 23 |
| Cancelled: | 2, 33, 41-50 |
| New: | 51,52 |
| Pending: | 1, 3-32, 34-40, 51,52 |

The claims have been amended to more clearly define the invention. Support for the amendments is either apparent, or is as described in the text below. Support for claim 51 can be found in the exemplary four and five component compositions described in the specification. Support for claim 52 can be found, for example, at p. 14, lines 9-11, in the repeated description of multiple constituent compositions, and in original claim 4. The revision of claim 18 corrects an obvious typographical error. The revision to claim 23 clarifies the claim to make more express what is implied by "vehicle."

Claim Rejections - 35 U.S.C. §103(a)

The pending claims stand rejected under 35 U.S.C. §103(a), based on Osterholm, US 4,686,085. This rejection is respectfully traversed.

"It is insufficient that the prior art disclosed the components of the patented device, either separately or used in other combinations; there must be some teaching, suggestion or incentive to make the combination made by the inventor." Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 934, 15 USPQ2d 1321, 1323 (Fed. Cir. 1990) (citations omitted), cert. denied, 498 US 920.

In the present case, the components are not even disclosed in the cited art since Osterholm '085 does not disclose or suggest dividing the composition into stable constituent compositions as required by claim 1. Osterholm '085 even less discloses or suggests dividing the compositions in separate chambers of a release bag as in claims 4-7 and 19-21. The particular

divisions of components into separate compositions of claims 9 and 12 are even less disclosed or suggested. Osterholm '085 still less discloses or suggests a multiple component composition kit that is free of fluorocarbon as in claim 23.

Also, the composition of claim 22 is not disclosed or suggested in Osterholm '085. Nor does Osterholm disclose or suggest the solutions of claims 24 and 37 that are essentially lacking in glutamic acid, glutamine and glycine. Osterholm '085 (as well as Osterholm's 5,085,630 and 4,981,691) further does not disclose or suggest compositions containing one or more of citric acid, cis-aconitic acid, isocitric acid, succinic acid, fumaric acid, malic acid or oxaloacetic acid.

Even if a given combination of references teach the individual elements of a claimed invention, the Court of Appeals of the Federal Circuit has repeatedly held that to support an obviousness rejection, the references must suggest the *desirability* of modification of the cited documents to produce the claimed invention. For instance, in In re Laskowski, the Federal Circuit held that the “mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the *desirability* of the modification.” In re Laskowski, 871 F.2d 115, 117, 10 USPQ2d 1397, 1398 (Fed. Cir. 1989) (citation omitted, emphasis added). This standard is clearly not met by the current rejection.

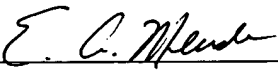
Conclusion

In light of these amendments and remarks, it is respectfully submitted that the Amendment should be entered, the rejections should be withdrawn, and that the application is in condition for allowance.

FEE DEFICIENCY

- ☒ If an extension of time is deemed required for consideration of this paper, please consider this paper to comprise a petition for such an extension of time; The Commissioner is hereby authorized to charge the fee for any such extension to Deposit Account No. 04-0480.
- and/or**
- ☒ If any additional fee is required for consideration of this paper, please charge Account No. 04-0480.

Respectfully submitted,


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